

**To:** Fotouhi, David[fotouhi.david@epa.gov]  
**From:** Greenwalt, Sarah  
**Sent:** Thur 11/16/2017 1:38:14 AM  
**Subject:** RE: For your review: proposed document release in response to FOIA request relating to WOTUS Rule

Thank you for sharing.

**Sarah A. Greenwalt**

Senior Advisor to the Administrator

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

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Greenwalt.Sarah@epa.gov

**From:** Fotouhi, David  
**Sent:** Wednesday, November 15, 2017 1:41 PM  
**To:** Greenwalt, Sarah <greenwalt.sarah@epa.gov>  
**Subject:** FW: For your review: proposed document release in response to FOIA request relating to WOTUS Rule

FYI

**David Fotouhi**

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**From:** Dubey, Susmita

**Sent:** Tuesday, November 14, 2017 1:27 PM

**To:** Forsgren, Lee <[Forsgren.Lee@epa.gov](mailto:Forsgren.Lee@epa.gov)>; White, Elizabeth <[white.elizabeth@epa.gov](mailto:white.elizabeth@epa.gov)>

**Cc:** Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Miller, Kevin <[Miller.Kevin@epa.gov](mailto:Miller.Kevin@epa.gov)>; Rementer, Nicole <[rementer.nicole@epa.gov](mailto:rementer.nicole@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>

**Subject:** For your review: proposed document release in response to FOIA request relating to WOTUS Rule

Below for your review is a link to a proposed document release under the Freedom of Information Act relating to the Waters of the United States Rule. The production is scheduled for November 30.

### Background

On March 22, 2017, EPA received a FOIA request from the Center for Biological Diversity (CBD) requesting certain records relating to the development and implementation of EO 13778, relating to the Waters of the United States Rule. On April 19, EPA received a second request from CBD requesting records relating to EPA's revision of the rule. On June 1, CBD filed a complaint in the federal district court for the District of Columbia alleging that EPA failed to respond to the first request. Subsequently, CBD amended its complaint to add allegations claiming that EPA failed to respond to the April 19 request. On September 29, EPA filed a status report with the court describing the search it was conducting and explaining that the search conducted for both requests identified approximately 90,000 potentially responsive records. EPA further stated that it intended to review 2000 documents per month and would produce a monthly rolling release of responsive, non-privileged documents, with the first release on or about November 30.

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### Proposed production

The proposed document release for the November 30 production is available through the Sharepoint link below, in four separate pdf files. I have also attached the FOIA requests at issue. The proposed release includes 134 documents totaling approximately 1300 pages, and reflects a search conducted for responsive documents created between January and April 2017. Custodians who were identified as having potentially responsive documents include members of the transition team as well as the Agency's Designated Ethics Official and his staff. Approximately 700 pages of the production are written responses from the Administrator to QFRs from Senate EPW committee members following the Administrator's confirmation hearing, which are included as attachments to several emails. The proposed production also includes meeting invitations and agendas relating to the WOTUS rule, as well as email communications. There are some redactions of records which are subject to the deliberative process privilege, as well as redactions of personal identifying information, including conference line numbers and personal email addresses.

Please send me any comments via email, referencing the DOC ID (stamped on the bottom of each page). I will then be able to go into Relativity and address any concerns. Please feel free to contact me with any questions. Thank you for your time on this.

[https://usepa-my.sharepoint.com/personal/dubey\\_susmita\\_epa\\_gov/Documents/CBD%20FOIA%20P](https://usepa-my.sharepoint.com/personal/dubey_susmita_epa_gov/Documents/CBD%20FOIA%20P)

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